

REMARKS

Upon review of the specification in light of the Notice of Omitted Item(s), Applicants noted several inadvertent errors with regard to the figures. This Preliminary Amendment is submitted to correct these errors. Applicants respectfully requests entry of these amendments prior to examination of the above-identified application. It was first noted that the references to Figures 6 and 7 on page 5 were incorrect. As originally filed, Figure 6 refers to a schematic diagram according to the process of Example 6; and Figure 7 refers to a graph of firmness versus calcium levels. Looking to the actual figures, it is clear that actual Figure 6 is a graph of firmness versus calcium level and is described by the original caption for Figure 7 on page 5. Applicants have amended the specification to reflect this change.

Applicants have also removed the original caption for Figure 6 (i.e., reference to the schematic diagram) on page 5; clearly only five schematic diagrams are presented in the figures as originally filed and the original caption for Figure 6 was for a figure not included in the originally filing. Upon looking at the various examples, it was confirmed that Figure 1 does correspond to process described in Example 1, Figure 2 to the process described in Example 2, Figure 3 to the process described in Example 3, Figure 4 to the process described in Example 4, and Figure 5 to the process described in Example 5. Moreover, the reference to Figure 2 in Example 6 was determined to be in error and has been removed. Thus, the process of Example 6 is not specifically illustrated with a figure.

Finally, Applicants have corrected the reference to the graph (original Figure 6) and to Table 1 in Example 7. The discussion of Fig. 7 in the specification as originally filed on page 19, line 24, clearly refers to the calcium levels indicated in original Figure 6. Likewise, the reference to Table 1 (penetrometer penetration values) also refers to the data provided in original Figure 6. The specification does not contain a table; the data referred to in the reference to Table 1 does, however, appear in original Figure 6.


CONCLUSION

Applicants respectfully submit that the amendments to the specification overcome the objection. Applicant respectfully requests that this rejection be withdrawn. The same objection to a lack of FIG. 7 was made in the parent application then was withdrawn after Applicant submitted a similar Preliminary Amendment to this Preliminary Amendment to delete the references to the omitted figure.

Similarly, the specification on page 5 of the continuation application now refers to the originally filed six figures. Corrections have been made within the specification with regard to the figures. No new matter has been introduced. Applicants respectfully request that this Preliminary Amendment be entered prior to examination of the claims and that the original filing date, along with the priority date of parent application (serial no. 09/882,231 filed on June 5, 2001) be maintained.

The Commissioner is hereby authorized to charge any additional fees which may be required in the Application to Deposit Account No. 06-1135.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY

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